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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,972	12/21/1999	MARTIN E. DENKER	54741USA1A.0	5610

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EXAMINER

POE, MICHAEL I

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/469,972

Applicant(s)

DENKER ET AL.

Examiner

Michael I Poe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) 12,19,36,43 and 49-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11,13-18,20-35,37-42,44-48 and 71-90 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Amendments*

1. Applicant's amendment A filed on August 30, 2002 has been entered. Based upon the entry of this amendment, existing claims 20 and 81 have been amended, no existing claims have been canceled, and no new claims have been added. Claims 1-90 are currently pending. Claims 12, 19, 36, 43 and 49-70 remain withdrawn as being drawn to non-elected species.

### *Claim Rejections - 35 USC § 103*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-4, 6-11, 13-18, 20-24, 26, 28-30, 32-35, 37-42, 44-47, 71, 73-79, 81 and 83-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,551,546 (Gosper et al.) in view of U.S. Patent No. 4,853,602 (Hommes et al.) for substantially the reasons set forth in the previous Office action mailed on April 2, 2002.

#### **Claims 1-4, 6-11, 13-18, 20-24, 26, 28-30, 32-35, 37-42, 44-47, 71, 73-79, 81 and 83-89**

The discussion of Gosper et al. and Hommes et al. as applied the claims above in the previous Office action and in the "Response to Arguments" section below applies herein.

The amendments to claims 20 and 81 in applicant's amendment A were solely to correct deficiencies under 35 U.S.C. 112, second paragraph and correspond to the assumption made by the examiner in the previous Office action; therefore, the above claims are rejected herein for the reasons set forth in the previous Office action and in the "Response to Arguments" section below.

4. Claims 5, 25, 27, 31, 48, 72, 80, 82 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,551,546 (Gosper et al.) in view of U.S. Patent No. 4,853,602 (Hommes et al.) and the Derwent Abstract of KR 9006301 B (Kim et al.) for substantially the reasons set forth in the previous Office action mailed on April 2, 2002.

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**Claims 5, 25, 27, 31, 48, 72, 80, 82 and 90**

The discussion of Gosper et al. and Hommes et al. as applied the claims above in the previous Office action and in the "Response to Arguments" section below applies herein.

The amendments to claims 20 and 81 in applicant's amendment A were solely to correct deficiencies under 35 U.S.C. 112, second paragraph and correspond to the assumption made by the examiner in the previous Office action; therefore, the above claims are rejected herein for the reasons set forth in the previous Office action and in the "Response to Arguments" section below.

***Response to Arguments***

5. Applicant's arguments filed August 30, 2003 have been fully considered but they are not persuasive except as noted below with regard to the rejections under 35 U.S.C. 112, 2<sup>nd</sup> paragraph.

The applicant first argues that, according to the recited definition of vinyl polymer taken from the Polymer Science Dictionary, polypropylene can be considered a vinyl polymer contrary to the assertion of the examiner. In view of the provide definition, the applicant's argument in this regard has been found persuasive by the examiner; therefore, the examiner has withdrawn the rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph with regard to this aspect herein. Further, in view of the amendments to claim 20 in applicant's amendment A, the examiner has withdrawn the remaining rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph herein. As such, all rejections under 35 U.S.C. 112, 2<sup>nd</sup> paragraph have now been withdrawn.

The applicant further argues that Gosper et al. teach a sequential stretching operation as opposed to the simultaneous stretching operation of the applicant's invention; therefore, Gosper et al. fail to teach the basic claimed process. Although the examiner acknowledges that Gosper et al. teach a sequential stretching operation rather than a simultaneous stretching operation, the examiner stipulates that the independent claims 1, 26, 71 and 81 and the majority of the dependent claims do not require a simultaneous stretching operation. Specifically, these claims only require stretching in a tenter frame in a single direction; therefore, the teachings of Gosper et al. are readable on the applicant's claimed invention of these claims. Only dependent claims 8, 9, 34, 76 and 86 require a simultaneous stretching operation. With regard to claims 8, 9, 34, 76 and 86, the examiner stipulates that the combined process

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of Gosper et al. and Hommes et al. teaches a simultaneous stretching process rather than a sequential stretching process. Further, one of ordinary skill in the art would have recognized that simultaneous stretching processes and sequential stretching processes can be interchangeably used for stretching polymeric films such as those taught by the applicant; thus, it would have been obvious to convert the sequential stretching process of Gosper et al. to a simultaneous stretching process as taught by Hommes et al. for the reasons provided in the previous Office action. For the reasons set forth above, the applicant's arguments in this regard are considered unpersuasive by the examiner.

The applicant further argues that Gosper et al. teach a temperature gradient that is transverse to the machine direction of the film whereas the temperature gradient taught by the applicants is along the machine direction of the film. In this regard, the examiner stipulates that Gosper et al. teach a temperature gradient in both the transverse and machine directions. As can be seen in Figure 2, Gosper et al. teach that the film is tenter stretched in an oven having 3 zones with vary temperatures to thereby create a machine direction temperature gradient as well as a temperature gradient in the transverse direction as acknowledged by the applicant. For the reasons provided above, the applicant's arguments in this regard are considered unpersuasive by the examiner.

The applicant further argues that neither Gosper et al. nor Hommes et al. recognizes the problem of idler clip lag with which the applicant is concerned; therefore, the combination of Gosper et al. and Hommes et al. would not teach the applicant's claimed invention. In this regard, the examiner stipulates that the problem of idler clip lag is addressed by a separate **non-elected** species of the applicant's invention, and therefore the arguments in this regard are not relevant to the **elected** invention. Specifically, non-elected claims 49-60 are concerned with idler clip lag whereas the elected claims are concerned with improving the uniformity of spacing of the driven and idler clips. Further, in response to applicant's argument that the combination of Gosper et al. and Hommes et al. fails to recognize the problem of idler claim lag, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter.

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1985). For the reasons provided above, the applicant's arguments in this regard are considered unpersuasive by the examiner.

The applicant finally argues that there is no suggestion to combine Gosper et al. and Hommes et al. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation to combine can be found in Hommes et al. which teach that providing idler clips minimizes film edge scalloping. For the reasons provided above, the applicant's arguments in this regard are considered unpersuasive by the examiner.

#### **Conclusion**

6. The prior art made of record in the previous Office action and not relied upon is considered pertinent to applicant's disclosure.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael I Poe whose telephone number is (571) 272-1207. The examiner can normally be reached on Monday through Friday.

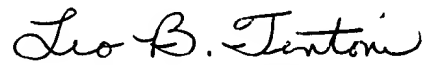
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.



Michael Poe/mip



LEO B. TENTONI  
PRIMARY EXAMINER  
ART UNIT 13732